IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

OP.No. 35210 of 2001(N)

PETITIONERS:
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1. P.P.GEORGE, PROJECT MANAGER,
KHADI AND VILLAGE INDUSTRIES COMMISSION,
CENTRAL SLIVER PLANT,
KUTTUR, TRICHUR 13.

2. B.B.GIRIMATH,
DY. DIRECTOR/MANAGER II,
KHADI GRAMODYOG BHAVAN,
K.V.I.C., M.G.ROAD, PALLIMUKKU,
ERNAKULAM.

BY ADV. SRI.V.N.ACHUTHA KURUP (SR.)
SRI.B.S.SWATHY KUMAR
SRI.G.SUDHEER
SNT,BINDU SREEKUMAR

RESPONDENTS:
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1. UNION OF INDIA REP.BY THE
SECRETARY TO GOVERNMENT OF INDIA,
MINISTRY OF INDUSTRY,
DEPARTMENT OF AGRO & RURAL
INDUSTRIES NEW DELHI.

2. KHADI AND VILLAGE INDUSTRIES COMMISSION,
3, IRLA ROAD, VILE PARLE (WEST),
MUMBAI- 56.

BY ADV. SRI.C.B.SREEKUMAR
SRI.K.KESAVANKUTTY

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/09/2007, ALONG WITH OP NO. 38463 OF 2002 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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OP .35210/2001

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE RESOLUTION 5(17) OF COMMISSION'S MEETING NO.449TH DT. 20.12.95.

EXT.P2:- COPY OF THE OFFICE MEMORANDUM NO.A11014/1/87-KVI/1080 DT. 18.12.98OF GOVT. OF INDIA.

EXT.P3:- COPY OF THE STANDING ORDER NO.1572 DT. 18.12.98 OF 2ND RESPONDENT.

EXT.P4:- COPY OF THE ORDER NO.ADM-1/ORW/7(79)/PRR DT. 31.10.01 OF 2ND RESPONDENT.

EXT.P5:- COPY OF THE LETTER NO.SANKHYA/NO.A-11014/1/87-KVI (VOL.III) DT.9.7.04.

EXT.P6:- COPY OF THE ORDER NO.ADMN-1/ORW/7/(79) PRR DT. 12.7.04.

EXT.P7:- COPY OF THE PARAS 43.15 & 43.16 OF FIFTH PAY COMMISSION REPORT.

EXT.P8:- COPY OF THE STANDING ORDER NO.1531 DT. 18.3.96 OF KHADI & VILLAGE INDUSTRIES COMMISSION.

EXT.P9:- COPY OF THE STANDING ORDER NO.1558 DT. 20.10.97 OF KHADI & VILLAGE INDUSTRIES COMMISSION.

EXT.P10:- COPY OF THE LETTER NO.ADM.I/ORW/9(154) DT. 19/20-12-05 OF THE CHIEF EXECUTIVE OFFICER TO THE JOINT SECRETARY TO GOVERNMENT OF INDIA.

EXT.P11:- COPY OF THE ORDER NO.ADM-I/ORW/7(4) /III DT. 24.9.91 OF THE CHIEF EXECUTIVE OFFICER KVIC.

RESPONDENTS EXHIBITS

EXT.R2(a):- COPY OF THE LETTER NO.A-11011(3) -KVI(II) (I) DT. 8.7.1980.

EXT.R2(b):- COPY OF THE LETTER NO.A-11011/3/80-KVI(II)(II) DT. 8.7.80.

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EXT.R2(c):- COPY OF THE LETTER DT. 10/25-3-80 BEARING NO.ADM-I/28/80-81.

EXT.R2(d):- COPY OF THE LETTER DT. 6.7.98 BEARING NO.ADM-I/IV-PC/PSR-I/V.

EXT.R2(e):- COPY OF THE LETTER DT. 22.3.99 BEARING NO. ADM-I/IV/PV/PSR-1/V.

EXT.R2(f):- COPY OF THE LETTER DT. 20.5.99 BEARING NO.A-11014/1/87-KVI.

EXT.R2(g):- COPY OF THE LETTER DT. 16/19-11-99 BEARING NO.A-11014/1/87-KVI/963.

EXT.R2(h):- COPY OF THE LETTER DT. 4/7-2-2000 BEARING NO. DO.A-11014/187-KVI/192.

EXT.R2(i):- COPY OF THE LETTER DT. 4/5-10-01 BEARING NO.C-13019/13/2001-KVI.

EXT.R2(i):- COPY OF THE RESOLUTION OF THE COMMISSION DT. 31/10.01 BEARING NO.3/CC/MISC/01-02.

/TRUE COPY/

P.A. TO JUDGE

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Thottathil B. Radhakrishnan, J.

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O.P.Nos.35210 of 2001 &
38463 of 2002

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Dated this the 19th day of September, 2007.

JUDGMENT

Petitioners in these matters are employees of Khadi and Village Industries Commission. They claim that they hold posts, for which, parity was available with the five posts mentioned in O.M.No.A 11014/1/87-KVI/1080 dated 18-12-1998 issued by the Government of India through its Under Secretary in the Ministry of Industry, Department of Small Scale Industries and Agro & Rural Industries and it was therefore, that the Khadi and Village Industries Commission issued the standing order No.1572 dated 18-12-1998, making available to them also the revision of pay scales ordered thereby and hence, the decision taken by the Union of India in its communication dated 4/5.10.2001 directing the Khadi and Village Industries Commission to recall the aforesaid standing order No.1572 is illegal and without jurisdiction.

2. The contention of the Khadi and Village Industries

Commission, going by the counter affidavit, additional counter affidavit etc. placed on record, is that the Commission had acted on the basis that the Union of India had not turned down its suggestion that revision of scales may be made applicable as regards all the posts which were treated to be at par.

3. Based on the pleadings of the Commission, it is also pointed out on behalf of the petitioners that the question of financial commitment was also considered by the Commission by treating that the revision is made available to all the posts which could be treated at par with the five posts enumerated in the O.M. dated 18-12-1998.

4. The aforesaid would show that the reliefs sought for by the petitioners in these cases are essentially against the decision of the Government in not ratifying the decision of the Commission.

5. Since the issues involved in these cases require the assistance of the Central Government, if it had to state anything

in opposition to the reliefs sought for and because no counter affidavit was placed on behalf of the Union of India, the order dated 7-8-2007 was issued directing that the first respondent may, if so advised, place counter affidavit on record within three weeks of receipt of a copy of that order, failing which, these writ petitions would be proceeded with on the premise that the first respondent Union of India has no defence to place in opposition to these writ petitions.

6. However, no counter affidavit has been placed on record on behalf of the first respondent and it is therefore deemed that the first respondent does not have any opposition to the reliefs sought for in these writ petitions being granted and that their views contrary to the interest of the petitioners have since been withdrawn.

7. The second respondent Commission is well within authority to decide on the base case and revision subject to ratification by the Government. When a competent decision has been taken based on the relevant facts and figures and if

ratification is sought for, the Union of India cannot ignore the ground realities and refuse revisional scales merely on the ground that ratification was not obtained. This is all the more so in the case in hand because the views of the Union of India contrary to the contentions of the writ petitioners are yet to be placed on record.

For the aforesaid reasons, these writ petitions are allowed, as prayed for. Each of the writ petitioners will be entitled to costs at the rate of Rs.10,000/- from the first respondent.

Thottathil B.Radhakrishnan,
Judge.

sl.

Thottathil B. Radhakrishnan, J.

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O.P.Nos.35210 of 2001 &
38463 of 2002

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JUDGMENT

Dated:19-9-2007